

STATE OF WASHINGTON



**OFFICE OF
INSURANCE COMMISSIONER**

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

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In the Matter of) No. D 2000 - 111
)
WESTERN	Consent Order
PROTECTORS	Levying A Fine
INSURANCE)
COMPANY,	
An Authorized Insurer)

STIPULATIONS AND FINDINGS OF FACT:

1. Western Protectors Insurance Company ("Western Protectors") is authorized to transact insurance business in Washington state.
2. In late 1998, the two complainants were insured by a policy of homeowners' insurance issued by Western Protectors. They were then living in an unincorporated part of King County. Their zip code was 98155. Due to the incorporation of the City of Kenmore in King County, they received a new zip code from the United States Postal Service, 98028. When this change in zip code was reported to Western Protectors on December 4, 1998, the insurer increase the premium on the policy of homeowners' insurance, for the sole reason that the zip code had changed. The complainants were still living in the same place. In this Order, they shall be identified as Mr. and Ms. O.
3. The complainants sent the Insurance Commissioner a consumer complaint about this. On January 15, 1999, a Compliance Officer at the Office of the Insurance Commissioner (OIC) wrote to Western Protectors, enclosing a copy of the consumer complaint. In the cover letter, the Compliance Officer asked "Please explain how this premium revision complies with WAC 284-24-

110. Your response should include all supporting documentation that would help resolve any factual disputes."

4. On January 21, 1999, the Personal Lines Supervisor at the Western Protectors office in Lynnwood, Washington, wrote a letter in reply to the Compliance Officer. She said that the change in zip code had "...resulted in a premium increase of \$8.00 for the remaining policy term from 12/02/98 to 01/22/99". The Personal Lines Supervisor also said that "...in the interest of good consumer relations we are willing to waive the additional premium for the current term as we had offered renewal prior to the processing of these endorsements. However, we will revert to the appropriate rate for Territory 31, premium group 10 at the next renewal." Prior to the zip code change by the USPS, the complainants had been in Western Protectors' Territory 30, based upon the original zip code, 98155.

5. On January 26, 1999, another compliance officer at the OIC wrote back to the Personal Lines Supervisor at the Lynnwood office of Western Protectors. She pointed out that the complainants had not relocated, and that a change in premium due solely to a zip code change was a violation of WAC 284-24-110. Also, "Please provide this office with plans for resolution of this violation, or evidence to otherwise dispute our findings. Additionally, please provide a listing of all other insureds affected by this situation."[emphasis added]. We would expect similar resolution for all insureds involved."

6. On February 2, 1999, the Personal Lines Supervisor for Western Protectors wrote a reply letter. She said that one of the insurer's actuaries had contacted someone in the "State of Washington Department of Insurance" and had received a recommendation that "...we institute a revised territory filing for the affected boundaries, and must retain the insured's previous rating territory. The...policy (held by the complainants) has been corrected to rate as zip code 98155 and the premium adjusted accordingly. We have begun the process of identifying and filing the new territory and will finalize the paperwork shortly." In response to the question about other insureds whose premiums had also been changed in violation of WAC 284-24-110, the reply letter said "At this point in time, we have not identified any other risks affected by this zip code revision."

7. In reliance upon this letter from the Personal Lines Supervisor, the Compliance Officer handling this matter at the OIC wrote to the complainants on February 19, 1999. She wrote that "Western Protectors had indicated (that) your territory rating will be re-adjusted to your previous lower premium. Your policy will be renewed with this corrected amount due."

8. Ten months later, on December 22, 1999, it became necessary to write again to Western Protectors about this matter. In a letter to the Personal Lines Supervisor at the insurer's Lynnwood office, the Compliance Officer handling this matter wrote that "(the complainants) have contacted our office recently with continuing concerns regarding their territory rating applied to the above noted policy."[emphasis added] Also, "An increase noted on their renewal notice was met with an explanation of territory revisions applied since their last renewal." The letter continued "On February 2, 1999, your response to this office indicated (that) a revision to Western Protectors' rating territories was in development and would be submitted to our office shortly. However, after review of our tracking system, we have been unable to locate a recent filing changing territory boundaries...It appears (that) the premium revision applied to the...policy (held by the complainants) is again in violation of WAC 284-24-110. [emphasis added] Please provide this office with plans for resolution of this violation, or evidence to otherwise dispute our findings. If a filing has been submitted to our office for review, please provide the filing number and effective date of this territory revision."

9. On January 11, 2000, the Personal Lines Supervisor at the insurer's Lynnwood office wrote in reply. She said that "A review of our file indicates (that) the territory reverted to the territory as rated by zip code. The policy (held by the complainants) has been corrected as of 01/22/00 to rate as zip code 98155 and the premium adjusted accordingly." She also wrote that "...our Senior Rating and Development Analyst...has advised (that) we are currently preparing a rate change

and will be submitting a revised territory filing with this rate change. This revision is scheduled to be submitted during the first half of 2000."[emphasis added]

10. On March 1, 2000, a staff attorney employed by the OIC sent an official inquiry letter to the Personal Lines Supervisor at the insurer's Lynnwood office, with a carbon copy to the insurer's home office in Oregon. This letter asked for confirmation of the facts set forth in the preceding paragraphs of this Order. It also asked for an unequivocal response to the question of over a year before, of whether there had been other insureds, in addition to the complainants, whose premiums had also been changed in violation of WAC 284-24-10.

11. On March 10, 2000, the insurer's Home Office Underwriting Manager replied to the March 1 inquiry letter from the OIC. She apologized for what had happened. She also described stops the insurer was taking, to prevent future violations of WAC 284-24-110.

CONCLUSIONS OF LAW:

1. WAC 284-24-110, "Effect of changes to zip code boundaries", provides that "An insurer shall not change an insured's rates solely because the insurer's zip code has been changed by the United States Postal Service. This section shall not be construed to prohibit insurers from using zip codes to define rating territories. However, the zip code boundaries in effect at the time an insurer makes a rate filing defining the territories shall determine the physical boundaries of these territories. These boundaries can be changed only by the insurer's subsequent rate filings."

2. Western Protectors committed two separate violations of WAC 284-24-110 with respect to the two complainants. The insurer also committed one violation apiece for the following additional insureds, with the following amounts refunded: \$52, \$44, \$61, and \$28. That is a total of six violations of WAC 284-24-110, for which all overcharges have been refunded, subject to set-off in some cases, resulting in net refunds.

3. In aggravation of these violations of WAC 284-24-110, Western Protectors violated it twice in the case of Mr. and Ms. O. The second time was after the insurer had given the OIC Compliance Officer written assurances on February 2, 1999, that "The...policy has been corrected to zip code 98155 and the premium adjusted accordingly." In addition, the insurer had represented to the Compliance Officer, in writing, that the insurer was about to submit new filings. As late as January 11, 2000, the insurer had not done so, and the Personal Lines Supervisor could only make the vague assertion that it would be done some time during "the first half of 2000".

4. In partial mitigation of the violations listed in the preceding paragraphs of this Order, the insurer did belatedly cooperate with the OIC after receiving the March 1, 2000 inquiry letter from the OIC staff attorney. The insurer has now reversed or refunded the amounts overcharged to the complainants and the other insureds listed above. The insurer has represented to the OIC that it has taken some specific steps to make sure the offenses are not repeated.

5. RCW 48.05.140(1) provides that "The Commissioner may refuse, suspend or revoke an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer...fails to comply with any provision in this code other than those for violation of which refusal, suspension or revocation is mandatory, or (which) fails to comply with any proper order or regulation of the Commissioner..."

6. RCW 48.05.185 provides that "After hearing or with the consent of the insurer, and in addition to or in lieu of the suspension, revocation or refusal to renew any certificate of authority, the Commissioner may levy a fine upon the insurer" in an amount from two hundred fifty dollars to ten

thousand dollars per offense.

CONSENT TO ORDER:

1. Western Protectors Insurance Company stipulates to the foregoing Stipulations and Findings of Fact, and Conclusions of Law. It also stipulates to a fine in the amount of \$15,000(fifteen thousand dollars and no/100) for six violations of WAC 284-24-110, in lieu of proceedings against the certificate of authority held by the insurer in Washington state. Of this amount , the sum of \$7,500 (seven thousand five hundred dollars and no/100) is suspended upon the following terms and conditions:

a. The unsuspended amount of \$7,500 (seven thousand five hundred dollars and no/100) shall be paid within thirty days after the entry of this order in Lacey, Washington. If it is not timely paid in full, then the certificate of authority held by Western Protectors shall be revoked, and the entire amount of \$15,000 (fifteen thousand dollars and no/100) shall be recovered in a civil action brought on behalf of the Insurance Commissioner by the Attorney General, in accordance with the provisions of RCW 48.05.185.

b. If the unsuspended amount of \$7,500 (seven thousand five hundred dollars and no/100) is timely paid in full, and if Western Protectors does not commit additional violations of WAC 284-24-110 within five years after the entry of this order in Lacey, Washington, then the Insurance Commissioner will at the end of the five years waive the suspended amount of \$7500 (seven thousand five hundred dollars and no/100);

c. If Western Protectors does timely pay the unsuspended amount of \$7,500 (seven thousand five hundred dollars and no/100) in full and then does commit one or more additional violations of WAC 284-24-110 within five years after the entry of this order in Lacey, Washington, then the suspended amount of \$7,500 (seven thousand five hundred dollars and no/100) will become immediately due and payable to the Insurance Commissioner, in addition to any other additional fines, consumer refunds, penalties and disciplinary actions taken at that time, including but not limited to proceedings against the certificate of authority held by Western Protectors in Washington State, such as suspension or revocation.

Executed this _____ day of

_____, 2000

Typed Name:_____

Typed Title:_____

WESTERN PROTECTORS INSURANCE CO.

ORDER:

Pursuant to RCW 48.05.140 and RCW 48.05.185, the Insurance Commissioner imposes a fine upon Western Protectors Insurance Co. of \$15,000 (fifteen thousand and no/100), of which the sum of \$7,500 (seven thousand five hundred dollars and no/100) is suspended for five years from the date this order is entered in Lacey, Washington, upon the terms and conditions in the foregoing "Consent to Order".

Western Protectors

Consent Order, P.6

ENTERED AT LACEY, WASHINGTON, this ____ day of _____, 2000.

DEBORAH SENN

Insurance Commissioner

By _____

William Kirby
Assistant Deputy
Insurance Commissioner

